IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Mula Ram Vs. State of Rajasthan & Ors.

S.B.CR. MISC. PETITION NO.371/2007

DATE OF ORDER :: July 10, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Sandeep Mehta, for the petitioner.
Mr.Ashok Upadhyaya, P.P.
Mr.A.K.Acharya, for the respondents.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 11.10.2006 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases and Additional Sessions Judge, Merta (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dt. 21.2.2006 taking cognizance of offence under section 138 of the Negotiable Instruments Act, 1881 (for short `the Act of 1881' hereinafter) by the Additional Chief Judicial Magistrate, Merta City (for short `the trial court' hereinafter), was dismissed.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submits that the issuance of the cheques has not been disputed by the petitioner in favour of the non-petitioner but the cheques have been issued in pursuance of an agreement, which according to the learned counsel for the petitioner has never been acted upon. So far as the order taking cognizance of offence is concerned, the Court is prima facie required to satisfy, from the material placed before it, as to whether the cheques were issued by the petitioner and on presentation, returned unpaid and dishonoured for want of sufficient fund and after notice as envisaged under section 138 of the Act of 1881 demanding cheque amount, the accused failed to pay the cheque amount within the stipulated period.

The contentions raised by the learned counsel for the petitioners that the cheques were not issued for discharge of liability legally enforceable is the matter of evidence of defence, which can only be raised at the appropriate stage at the trial. In this view of the matter, in my view, the revisional court was justified in dismissing the revision petition filed by the petitioner.

No case for interference is made out. The petition filed by the petitioner under section 482 Cr.P.C. is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-